

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOHN TYRONE GREEN, #196584,

Petitioner,

v.

Case No. 07-CV-14153
Honorable Anna Diggs Taylor

STATE OF MICHIGAN,

Respondent.

ORDER DENYING MOTION FOR REHEARING AND/OR RECONSIDERATION

This matter is before the Court on Petitioner's motion for rehearing and/or reconsideration regarding the transfer of his successive habeas petition to the United States Court of Appeals for the Sixth Circuit. The case was transferred to the United States Court of Appeals for the Sixth Circuit on October 17, 2007. Petitioner's petition/complaint was couched as a motion for declaratory judgment, but a careful review of the document demonstrated that Petitioner was seeking habeas relief, and therefore, the Court construed the petition/complaint as a successive habeas petition. The Court adheres to its position.

A motion for reconsideration which presents issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *See Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999); *Czajkowski v. Tindall & Assoc., P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997). Here, the Court properly transferred Petitioner's petition to the United States Court of Appeals for the Sixth Circuit because it was a successive habeas petition. Petitioner filed a prior habeas corpus petition challenging the same convictions at issue in this case, which was denied on statute of limitations grounds. *See Green v. Smith*, No. 99-CV-76269 (E.D. Mich. Aug. 15, 2000) (Friedman, J.). Petitioner then filed a second petition on May 21,

2007, with this Court, which was transferred to the Sixth Circuit Court of Appeals. *Green v. Romanowski*, No. 07-12194 (E.D.Mich. June 6, 2007) (Zatkoff, J.). That petition is still pending before the Sixth Circuit Court of Appeals—Case No. 07-1714. This is Petitioner’s third petition. Petitioner did not obtain appellate authorization to file a subsequent petition as required by 28 U.S.C. § 2244(b)(3)(A). Therefore, the Court, as it is required to do, transferred his case to the United States Court of Appeals for the Sixth Circuit.

Thus, Petitioner has not met his burden of showing a palpable defect by which the Court has been misled or his burden of showing that a different disposition must result from a correction thereof, as required by Local Rule 7.1(g)(3).

Accordingly,

IT IS ORDERED that Petitioner’s motion for reconsideration (Docket # 5) is **DENIED**.

DATED: November 1, 2007

s/Anna Diggs Taylor
ANNA DIGGS TAYLOR
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Order was served upon Petitioner by First Class U.S. mail on November 1, 2007.

John Green, #196584
Gus Garrison Correctional Facility
2727 E. Beecher Street
Adrian, MI 49221

s/Johnetta M. Curry-Williams
Case Manager